695 The procedure was the same for all, men and women. The sons
681 of nabas, the nakomsé, however, were neither tried nor punished in
554 public. They were not tied with ropes, but with strips of fabric; and if condemned to death, they were hanged rather than clubbed to death. In any case, complaints against them were extremely rare. The sons of a powerful naba could do anything with impunity.

681 For examples, here are a few crimes and their respective punishments. Of course, there was no written code, no formal scale of penalties. Everything depended on custom and on the whim of the
696 judge. Thus, the wealthy could obtain sentences in their favor by
691 paying the judges, and thieves could avoid punishment by sharing their loot with the naba. Otherwise, a thief caught in the act was
685 flogged, sometimes to death. He was condemned to several months in irons, and exposed to public ridicule before the naba's hut; he had to restore what he had taken, and his family was held responsible. If he repeated the offense, he was led to the marketplace with a rope around his neck; he was supplied with an abundance of meat and dolo /beer/, and then clubbed to death at the foot of a tree. In Ouagadougou he was sometimes made a eunuch instead. This was almost the equivalent of a death sentence, because the operation was carried out in such barbarous fashion that death often ensued. French justice more leniently imprisons the thieves, a cause of complaint by honest people who find the punishment too mild.

682 In case of willful murder, the killer was put to death; if he could
683 not be found, a member of his family was executed in his place.
672 In case of a brawl, no attempt was made to determine who had started the fight or who was in the right. (Manslaughter was punished by a fine paid to the victim's family. The right /26/ of self-defense was, of course, recognized. If blows and wounds had been inflicted, the adversaries were put in irons.)

681 Old women were often accused of being witches and of eating
683 children's souls. If their crime was considered proved, if the sorcerers
888 consulted declared some old woman guilty of a baby's death, she was put to death in very cruel fashion: a second opening was made in a clay pot so that her head could be put completely within it; then the pot was heated intensely and placed over the head of the unfortunate woman.

685 If a goat or sheep caused damage to a field, the animal could be killed on the spot. The owner had to be notified, but he was not

685 entitled to complain and merely removed the animal. If the damage was caused by a cow or donkey, the owner of the field had to obtain a witness and was entitled to recover damages.

425 Whoever found an object of small value, such as a knife or even a garment, was entitled to keep it, but anything valuable, such as a sheep, a donkey, or, all the more, a cow, had to be handed over to the naba and became his property.

684 837 The province chief alone could pass sentence on a rapist. He was beaten and put in irons, the girl was returned to her family, and, if she gave birth, the child was killed. If the girl had been promised to the naba, the rapist was put to death. An adulterer caught in flagrante delicto could be killed by the deceived husband, but if he had not been caught in flagrante delicto, if he had managed to run away, or if he had merely been denounced by the woman, the deceived husband could do nothing. A girl's seducer usually became her husband if she gave birth, but he had to provide another girl for her betrothed.

791 787 837 The province chief had a special procedure to insure the faithfulness of his numerous wives and his pages. When a wife or page did not behave properly, the Poënaba was supposed to point them out to the naba. He proceeded as follows. Every Friday the Poënaba left his village on foot, a whip in his hand. A servant preceded him with a leather satchel containing charms. No one was allowed to come near him. Everyone fled into the bush, and the path he had followed was closed to other people until they learned that the dreadful man had reached the home of the naba. The wives were gathered together. The Poënaba filled a large gourd with water, poured in his ingredients, and sat before it. The women came to him one by one and cast their reflection in the water. The Poënaba looked in and claimed to recognize those wives who were faithful and those who were not. The former were allowed to go free, but they were often beaten to remove any possible inclination to unfaithfulness. Those designated as unfaithful were seized and had to denounce their accomplice. Both the man and woman were clubbed to death. If the woman pointed out as guilty had no accomplice or refused to name him, she alone was killed. Women still point out with terror the place of execution. This procedure was very barbarous, and its abuses were flagrant. To avoid an accusation which would cost them /27/ their lives, the poor women were ready to do anything, and they presented the Poënaba with all the gifts they could gather in order to be spared.

10:Hammond E-5 (1954-1956) 1964 FA28 Mossi FA28

tween the Mossi and several other ethnic groups. In each instance the structural relationship in which joking occurs is characterized by the five features listed above.

Joking with the Mother's Brother

The relationship with a maternal uncle is marked by all five of the structural features mentioned. Separation results from the rules of patrilineal descent and inheritance rules, from patrisib exogamy, and from the general observance of patrilocal residence. The relationship is reciprocal in that a mother's brother serves throughout Ego's life as an important alternative source of emotional, economic, and social support: he often acts as intermediary in disputes between Ego and his parents or the elders of his lineage; he gives Ego frequent gifts; and residence in the mother's patriclan is the most frequent alternative to patrilocality. In turn Ego, as a result of the permissive relationship he enjoys with the spirits of his deceased cognatic kinsmen, often serves their living descendants as an intermediary in their ritual efforts to maintain a secure relationship with the ancestral spirits.

Ambivalence between Ego and his mother's brother and her other kin results from the conflicting sources of "conjunction" and "dissociation" just mentioned. The conflict between a strong affective bond—a "feeling" of kinship—and a system of inheritance which denies it jural recognition generates frustration. The ambivalence in the relationship is manifested not only by joking, which is asymmetrical—with Ego being the more aggressive—but by theft as well. Perhaps as partial compensation for his inability to inherit matrilaterally, Ego is permitted to steal his mother's brother's property during his lifetime and can also make off with the beer and some of the animals collected for his funeral.

As for equality of status, the descent groups of Ego and mother's brother are structurally equivalent. Although their respective positions within these two groups differ, the permissiveness of Ego's relationship to his maternal uncle absolves him from recognition of the canons of comportment that otherwise prevail among the Mossi in relations between persons of differing status. Indeed, disregard for such status differences is part of the "joke." Independence is assured by the fact that Ego and his mother's brother are members of autonomous descent groups and that each is responsive only to the authority of his respective lineage elders.

Joking with a Mother's Brother's Wife

Joking between Ego and his mother's brother's wife is to be regarded as a separate relationship because of her nonmembership in the mother's brother's descent group, but certain of the structural circumstances are similar. The source of separation from the mother's brother's wife is evident. The reciprocal tie that unites them is indirect; when Ego is received warmly in his mother's brother's household it is the wife of the latter who prepares the food he is given. Similarly, as a member of her husband's patriclan, she benefits

11: Skinner E-5 (1955-1957) 1964
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between the lineages concerned. If either the repudiated woman or a member of her husband's lineage wished to initiate a reconciliation, she or he had to summon a yagenga. He alone was permitted to reconcile the couple after the pots had been placed in the courtyard. When a woman felt that she was being maltreated by her husband, she usually fled to her own patrilineage and waited for her husband's patrilineage—usually his brothers—to visit her male relatives and discuss the case. If the woman was judged guilty, she was reprimanded and sometimes flogged by her own relatives for causing trouble between the two lineages, and then sent home to her husband. However, if the man was found guilty, his wife was returned to him, but he was warned that he would forfeit all rights to her if he maltreated her again. A man who lost his wife through repeated maltreatment could not take the matter to court, because chiefs usually refused to deal with purely domestic issues. His only recourse was to induce one of his lineage brothers to recall a daughter who had married into his wife's lineage. This act was usually sufficient to bring about the reconciliation of the estranged couple before innocent persons were hurt.

The Mossi made every effort to solve minor problems without recourse to the chiefs. The local Boodkasemdamba and lineage elders adjudicated quarrels and simple offenses involving members of minimal segments in the various village saghse. They even tried to resolve difficulties between lineage members of larger segments who lived in different villages. The elders often imposed punishments such as reprimands, floggings, and even banishment. The convicted person did not usually appeal to the chief, because he knew that the chief would advise him to settle his problem within the family.

Unrelated villagers also tried to settle difficulties among themselves without appealing to the chief. For example, a man who was caught stealing could be beaten or even killed by his intended victims, and the chief did not punish them for their action. In many cases, villagers simply took the thief back to his relatives, knowing they would punish him. Occasionally, a family disgraced by a thieving member forced him to kill himself. When this happened the chief held an inquest but took no other action.

The Mossi gave a fairly simple explanation for returning a thief to his relatives for punishment. They said that every family had "weak" members, and that by not harming the captured thief they were only protecting themselves against retaliation if one of their own relatives should commit a similar crime. But a more important reason seems to have been their fear of starting a feud that might result in the premeditated murder of a man and the subsequent execution of his murderer.

The one crime that invoked terrible unofficial sanctions was rape. If the

The following case, tried in a district court in 1956, illustrates the Mossi concept of justice. 691 685 634

To reach the central market, the people of Donse village used a path that ran across the fields belonging to two of their fellow villagers, Zami and Isa. The path was normally open all year round, even during the planting season, because neither man wished to inconvenience the villagers. But one day the two men quarreled, and shortly thereafter Isa announced his decision to close his path during the planting season. He said he feared that "people would steal his growing crops" if he left it open. Moreover, he wanted to use the path to increase his planting area. Zami objected to what he considered an insult, and, believing that Isa had violated a customary rule, used the path. In doing so, he crushed several stalks of millet. Isa witnessed his action, and the men came to blows. When the village chief proved unable to reconcile them, they were brought before the district court.

The district chief ruled that according to Mossi custom, a man could close a path during the planting season to prevent people from stealing his crops. But if he closed a path, he had to provide an alternative route, for no one had the right to restrict the movements of others. The chief sympathized with Isa over the small size of his field, but insisted that he provide a path across or around it. However, he persuaded Zami to let Isa use a portion of his land in compensation for the new path. 695 691 685 634

The chief tried to reconcile the interests of Isa and Zami with those of the entire village. He apparently felt that reconciliation was more useful than judgment. He did uphold the law that the right of passage is mandatory, but also maintained that a man has the right to protect his property from potential thieves. At the same time, he made it clear that although a man may defend his own rights, he may not do so by infringing upon the rights of others.

The same principles seem to have been upheld in the following case, also recorded in 1956, which is interesting because it illustrates the flexibility of Mossi law. A man named Hammadou died, leaving fifteen cows as his legacy. Moussa, his eldest son and principal heir, distributed the cows among his father's other sons and male relatives, but did not give any to his father's daughter. Strictly speaking, he was right to exclude her, because a woman was not supposed to inherit any of her father's property unless he had no living lineal or collateral relatives. In practice, however, a daughter always received part of her father's legacy, especially if he had been wealthy. Hammadou's daughter therefore felt slighted, and when she received no redress from Moussa or her other male relatives, she had the case taken to the village chief. He could not resolve it, and referred it to the district chief. 691 428 [562] [692]

When Moussa was called before the district chief, he explained that his [634]

died while he was using it, the owner could not press any claims. However, the borrower was obliged to sell the animal's flesh and give the money to the owner along with the animal's skin as proof of its death. Under no circumstances would a district chief absolve a man from paying the market value of an animal if he failed to return the skin. Such failure would brand him as a thief and involve an additional fine.

The Mossi considered theft a major crime. A thief could be killed with impunity if he was caught in the act and in the presence of several witnesses. If these conditions were not met but the man killed was known to have been a thief, the killer was fined several cows. But if he was known to have been a man of good character, the killer ran the risk of being executed. In this way, the Mossi tried to prevent any abuse of an accepted practice. The theft of grain and other foodstuffs was considered especially reprehensible, because it was held to indicate that the thief was so depraved that he would not even grow his own food. During the rule of Naba Kaglere of Nobere district (1888–1906), a man called Yahiya left his own village of Donse and went to a village called Quitenga to steal sweet potatoes. The people of that village caught him in the act and shot him with a poisoned arrow as he made his escape. Yahiya died without revealing the source of his wound, and his babissi, suspecting foul play, asked Kaglere to investigate. When the Quitenga people learned of the investigation, they went forward voluntarily and reported the circumstances under which they had wounded Yahiya. Kaglere absolved them of all guilt and told the Donse people that Yahiya had deserved to die, not only because he had stolen food (which he might have received if he had asked for it), but because sweet potatoes were the easiest vegetable to cultivate.

A thief who was too clever to be caught in the act but who was apprehended afterwards was treated quite harshly by the Mossi court. Here, the penalty of double indemnity was often applied. A man who was brought to court for stealing a chicken or guinea hen was fined a goat or a sheep. Hence the Mossi proverb "Zou noaga ronda bouga"—"He who steals a chicken repays a goat." The thief who stole one cow had to return several. If a thief could not pay the fine, he was placed in stocks until his relatives paid for him. If they refused to do so, the chief's retainers seized their property, sold it, and made restitution. This often compelled the family of a recidivous thief to make him commit suicide. If the family would not resort to this, the district chief had the man seized and clubbed to death.[7] Sometimes the chief sent recidivists to the Mogho Naba, who sent them to a village called Teemetenga to be made into eunuchs.[8]

The Mossi seem to have made a distinction between theft and pillage—

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a practice whereby nobles deprived commoners of their property. Those nobles who lived among commoners quite often confiscated their neighbors' property. But this was not regarded as theft and was not punishable as such, although a rapacious nobleman could be sanctioned for terrorizing and "spoiling" a village. If a nobleman was caught performing an act that *was* considered theft, or if he was accused and found guilty of theft, he was severely punished. During Kaglere's reign, the people of a small village suffered a series of livestock thefts. One day, while the friends of a village chief were sitting with him, a dog came out of the chief's compound dragging an animal skin. The men recognized the skin as that described for a stolen goat, and decided to investigate. In the chief's courtyard they discovered the hole from which the dog had unearthed the skin. They also found the skins of several other stolen animals. The villagers took the village chief to the district chief, who found him guilty and exiled him from the region. In passing judgment, the district chief told him that he had been elected "to care for the village," but that he had betrayed his trust by robbing his own people.

According to Mossi law, willful homicide or murder was punishable by execution. The Mossi did not use wergild or "blood money," but insisted on the *lex talionis*, which they interpreted as "a life for a life." They did not believe that money or any other valuables could compensate for the life of a man, nor would they allow a slave to be executed in place of the murderer. They believed that only by executing the murderer himself could they prevent his victim's relatives from resorting to vengeance and thus "spoiling" the district or village.

A man who grievously wounded another was apprehended, bound, and taken to the village chief and subsequently to the district chief. Here he was kept in stocks in the serfs' quarter without being tried until his victim either died or recovered. If his victim recovered and the judge found that the wound had been inflicted accidentally, the defendant was fined or had his goods confiscated, but he was released. If the judge found that the victim had been wounded in a fair fight, the prisoner was usually censured and dismissed. The chief often warned the wounded man that he ought to have lived up to the Mossi axiom that a grown man is always able to protect himself. If, however, the trial revealed that the prisoner had ambushed his victim with the intent to kill, he either was fined several cows or had his entire property confiscated. District chiefs are known to have executed the perpetrators of cowardly ambushes even though their victims recovered.

If a man died at the hands of another, an inquest was held immediately. If the killing had been accidental or committed in self-defense, or if it was

11: Skinner E-5 (1955-1957) 1964
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found to have been justified—that is, if the victim was a thief or a nocturnal intruder—then the accused was acquitted or simply fined. If, however, the accused was found guilty of murder, he was sentenced to die, and the mode of execution was at the chief's pleasure. The chief surrendered the prisoner to his executioners, serfs who lived in the Baglere ward. They took him into the woods and carried out the sentence by strangulation, hanging, decapitation, clubbing, or stoning.

The perpetrator of an unusually heinous crime was often ordered to kill himself with a poisoned arrow. This form of execution was feared most, because it tested the murderer's mettle and called into play the coercive force of his lineage if he proved to be a coward. When such an execution was ordered, the district chief had a poisoned arrow prepared and brought to the murderer's father, his brother, or his father's brother's son. The relative gave the arrow to the condemned man, and, while apologizing for his painful mission, explained that the crime had to be expiated. If the murderer agreed to kill himself, his relatives prepared food and drink for him while his grave was dug. Some proud and brave men helped their relatives dig the oblong-shaped grave required for a murderer; some even insisted on digging it themselves. When both the food and the grave had been prepared, the murderer bade his relatives farewell, took the food and the poisoned arrow, and went into a hut. Here he ate the food and afterward killed himself by pushing the poisoned arrow into his leg. In some cases he had to be provided with a second arrow to hasten his death. If a cowardly murderer refused to kill himself, one of his relatives offered to die in his stead. He told the murderer that death was preferable to the knowledge that his lineage brother was a coward. What would happen, he asked the murderer, if he saw a relative being harmed? Would he choose his own safety rather than run the risk of death? The other relatives asked the same questions, and this subtle coercion was usually sufficient to induce the most cowardly man to kill himself. There are no reports of a murderer's permitting a relative to die for him; life would have been impossible for him afterward. One suspects that if ever a murderer had attempted to elude his fate, the district chief would have had him executed.

The district court also prescribed capital punishment for individuals convicted of arson, abduction, witchcraft, or lese majesty. A person convicted of willfully setting fire to someone's hut or crops was put to death even if no one was killed in the resulting fire; he was held to have jeopardized the life and livelihood of his victims. Similarly, the rare person convicted of threatening the well-being of others through the practice of witchcraft was usually tortured and killed. Conviction usually followed the testimony of witnesses or the confession of the accused.

12:Skinner E-4,5 (1955-1957) 1962
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stock against marauding beasts and thieves. All caravaneers had to pay a tax to the local chiefs to cross their borders or to stop in their markets to trade. Binger reported that the caravans which passed through the market center of Wagadougou had to give the Moro Naba a share of their merchandise, aside from the presents which they gave to him. He also reported that the horse traders from the Yatenga, in the north of Mossi country, and the Hausa caravaneers, were sometimes forced to sell part of their wares to the Moro Naba at one-hundredth the purchase price (Binger 1892 : II, 292–300). Not all the caravaneers submitted to extortion, however, and at one period many of them traded with Mane instead of passing through Wagadougou where the tariffs were too high. On the other hand, the Mossi chiefs did not tolerate any trespassing on their territories by caravans that did not pay taxes. Those who tried to avoid doing so were subjected to attack by the mounted nobles *(nakomce)* on behalf of the district chiefs. Wise caravan leaders not only paid their taxes but established close relationships with the chiefs in order to receive adequate protection from some nobles who illegally attacked and looted the caravans.

It is impossible to know the actual volume of caravan trade which passed through Mossi country, but we can get a fairly good idea of it by examining the customs reports on goods crossing the border between Mossi country and the northern territories of the Gold Coast in the few years just following European conquest.[6] For 1901 and 1903 the official figures were:

TABLE 28A

Mossi Trade (1901–3)

Year	*Horses*	*Cattle*	*Sheep and Goats*	*Loaded Donkeys*	*Bales of Cotton Cloth*
1901	126	3,111	18,181	2,095	236
1903	196	6,624	30,892	4,294	369

Lucien Marc, who had the opportunity to check the volume of this trade for 1904 and 1905, guessed that about 16,000 cattle and 75,000 sheep and goats passed through the customs post in Mossi country. Furthermore, he believed that since

> ... the Mossi also supply in part the markets of Togoland and the market at Bondoukou [Ivory Coast], one can estimate at least an annual export of 20,000 cattle and 100,000 sheep or goats. The import of kola nuts is at least 500 tons. (Marc 1909 : 178)

(6) Great Britain Parliamentary Papers: Cd. 788–27, no. 357, Northern territories of Gold Coast, report of 1901 in Acc. and Papers, vol. LXIV 1902. Cd. 2238–6, no. 429, N.Ts of Gold Coast, report of 1903 in Acc. and Papers, 1904, and 1905, vol. LI.